

District Judge James L. Robart

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

JULIO CURY and TAKAO YAMADA,

Plaintiffs,

v.

DEPARTMENT OF STATE, and
DEPARTMENT OF HOMELAND
SECURITY,

Defendants.

Case No. 2:23-cv-00499-JLR

JOINT STATUS REPORT

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Pursuant to this Court’s Order on summary judgment, Dkt. 44, the parties submit this joint statement. Regarding any substantive FOIA claims, Plaintiff intends to appeal this Court’s order on summary judgment. Plaintiffs and Defendants agree that there are no other substantive FOIA claims or issues in this litigation that have not otherwise been resolved and are in need of this Court’s resolution.

Regarding any request for attorney’s fees, Plaintiffs further request that any discussion of attorneys’ fees be postponed until after an appeal is adjudicated. See Advisory Committee Note to Rule 54(d) (“If an appeal on the merits of the case is taken, the court may rule on the claim for

1 fees, may defer its ruling on the motion, or may deny the motion without prejudice, directing under
2 subdivision (d)(2)(B) a new period for filing after the appeal has been resolved.”). As it currently
3 stands, Plaintiff is only entitled to compensation under the catalyst theory, *see First Am. Coalition*
4 *v. DOJ*, 878 F.3d 1119, 1127 (9th Cir. 2017), for a minority of the work performed by its attorneys,
5 and if it prevailed *at all* in an appeal, it would almost certainly necessitate a new round of briefing
6 on attorneys’ fees, which would be highly duplicative of any fee petition filed with this Court at
7 this time. It would therefore be significantly more efficient for the parties to wait until this appeal
8 had been fully resolved to discuss the question of attorneys’ fees. *See Forras v. Rauf*, 74 F. Supp.
9 3d. 1, 3 (D.D.C. 2014) (“[E]ven if the decision is upheld on appeal, the Court will likely face
10 another motion for attorney fees related to the cost of the appeal process. Such a motion would
11 raise issues similar to those in the present motion for attorney fees Therefore, much of the
12 subsequent analysis would be duplicative.”). Lastly, as the catalyst theory is well-established in
13 FOIA case law across the country, the Court should give little weight to Defendants’ position that
14 an award of attorneys’ fees is unwarranted, but even to the extent that the Court considers that
15 statement, it should still agree that a substantive briefing of that question should wait until the
16 appeal is resolved.

17 The government does not agree that an award of attorney’s fees to Plaintiffs is warranted,
18 but does not oppose postponing resolution of any attorney’s fees issues until the conclusion of any
19 appeal.

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1 DATED this 13th day of August, 2025.

2 Respectfully submitted,

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